

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION**

GLAXO GROUP LTD.
d/b/a GLAXOSMITHKLINE,

Plaintiff,

v.

MICHAEL O. LEAVITT,
in his official capacity as
SECRETARY, DEPARTMENT OF
HEALTH AND HUMAN SERVICES

and

ANDREW C. VON ESCHENBACH, M.D.
in his official capacity as
ACTING COMMISSIONER,
FOOD AND DRUG ADMINISTRATION,

Defendants.

and

ROXANE LABORATORIES,

Defendant-Intervenor.

Civil Action No. AMD 06-469

**MOTION TO DISSOLVE ORDER THAT PLAINTIFF SHALL POST SURETY BOND AND
FOR ENTRY OF ORDER DISPOSING OF MOTION FOR RESTITUTION**

GSK hereby moves this Court for an order dissolving the February 24, 2006 Order of Judge Bennett requiring GSK to post a surety bond in the amount of \$3,000,000. In support of this motion, undersigned counsel states that, on Friday, April 13, 2007, GSK paid the sum of \$3,000,000 to an account designated by Defendant Roxane Laboratories ("Roxane"). Counsel for Roxane has confirmed receipt of the payment.

GSK also hereby moves this Court for an order disposing of Defendant Roxane Laboratories' ("Roxane") "Motion for Restitution to Rectify Unjust Enrichment," filed on April 17, 2006. This Court's Memorandum dated August 7, 2006 already denied Roxane's motion "based on virtually all of the grounds relied on by Glaxo" but indicated that a subsequent order would be forthcoming. Mem. at 1. And the Court's Memorandum Opinion dated April 6, 2007 confirmed that "Roxane is not entitled to a restitutionary measure of recovery" because "Glaxo did not act wrongfully under the circumstances" and, in fact, acted in good faith. Mem. Op. at 6 n.4. GSK, therefore, requests that the Court issue an order and docket entry that confirm its disposition of the motion for restitution. Furthermore, because Roxane's motion for restitution is the only remaining outstanding matter that has not been the subject of any order, it may be necessary for the Court to issue such an order to terminate the litigation before this Court.

Respectfully submitted,

/s/

Mark D. Gately (Federal Bar No. 0134)
Steven F. Barley (Federal Bar No. 10049)
Hogan & Hartson LLP
111 South Calvert Street
Suite 1600
Baltimore, MD 21202
(410) 659-2700

Michael L. Kidney (Federal Bar No. 24450)
Hogan & Hartson LLP
555 Thirteenth Street, N.W.
Washington, DC 20004-1109
(202) 637-5600

Attorneys for Plaintiff GlaxoSmithKline

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of April, 2007, a copy of the foregoing was sent by electronic delivery and first-class mail to:

Jennifer Wright, Esquire
Tarra DeShields, Esquire
United States Attorney's Office
for the District of Maryland
36 S. Charles Street, 4th Floor
Baltimore, MD 21201

Drake Cutini, Esquire
Office of Consumer Litigation
U.S. Department of Justice
Room 9529N
National Place Building
1331 Pennsylvania Avenue, N.W.
Washington, DC 20004

Claudia Zuckerman, Esquire
Room 6-13
Food and Drug Administration
Parklawn Building
5600 Fishers Lane
Rockville, MD 20857

William B. Schultz, Esquire
Lisa Barclay, Esquire
Zuckerman Spaeder L.L.P.
1800 M Street, NW, Suite 1000
Washington, DC 20036-5802

Cyril Smith, Esquire
Zuckerman Spaeder L.L.P.
100 East Pratt Street
Suite 2440
Baltimore, MD 21202

/s/
Mark Gately